

## **REMARKS**

Applicant is in receipt of the Office Action mailed June 4, 2009. Claims 94, 96, 97, 98, 101, and 102 have been amended. Claims 59-104 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks. Applicant respectfully requests entry of this Amendment as it places the claims in better condition for appeal.

### **Objections**

Claim 98 was objected to for omission of “the graphical user interface” from the claim, and has been amended accordingly. Applicant respectfully notes that in the previous Response, claim 98, as well as claims 97 and 101, had inadvertent errors which were not intended as amendments, and have been amended accordingly. Applicant thus respectfully requests removal of the objection to this claim.

Applicant has also amended claims 94, 96, and 102 to correct antecedent basis errors and to clarify the intended scope of the claims.

### **Section 112 Rejections**

Claims 94, 97, and 101 were rejected under 35 U.S.C. 112 for being indefinite. Applicant has amended these claims accordingly. More specifically, Applicant has amended claim 94 (and similar claim 102) to clarify that the user input manipulating the inputs of the at least one input variable is provided to the first computer, which then executes the block diagram using the manipulated input (of the at least one input variable), and has amended claims 97 and 101 to clarify that it is the “graphical user interface” of the graphical program being addressed in these claims (which had been omitted due to unintentional cut/paste errors).

Applicant thus respectfully requests removal of the section 112 rejection of these claims.

### **Section 103 Rejections**

Claims 59-104 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,801,689 ("Huntsman"), in view of US Pat. No. 4,901,221 ("Kodosky"). Applicant respectfully traverses the rejection.

As the Examiner is certainly aware, to establish a prima facie obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03.

Amended claim 59 recites:

59. A computer accessible memory medium that stores program instructions executable to:

establish a network connection with a client computer system over a network;

receive user input from the client computer system indicating a graphical program for execution;

execute the graphical program, wherein the graphical program includes a block diagram that comprises a plurality of interconnected function icons representing graphical data flow of a desired function, and wherein said executing the graphical program comprises executing the block diagram;

send information describing a user interface of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the user interface is useable by the client computer system to display the user interface on the client computer system; and

send information regarding the block diagram of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on the client computer system;

wherein the user interface is operable to facilitate interaction between a user and the graphical program over the network.

Nowhere does the cited art disclose **send information regarding the block diagram of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on a client computer system**, as recited in claim 1.

Regarding the cited col.9:31-50, Applicant respectfully notes that the Examiner cites Huntsman's sending of GUI information ("the GIF image file containing the screen image of the GUI on the first computer") with respect to *both* sending information describing a user interface of the graphical program over a network to the client computer system, *and* sending information regarding the block diagram of the graphical program over the network to the client computer system. This is incorrect, and improper, as it ignores key distinctions of elements recited in the claim. In other words, Huntsman's sending of GUI information cannot properly be cited as teaching both sending information regarding the graphical user interface of the graphical program, *and* sending information regarding the block diagram of the graphical program.

Per the citation, Huntsman's GIF file, as referenced by the REMOTE.HTM, presents the screen image of the client (first) computer, and REMOTE.HTM contains appropriate HTML references to the GIF file so that the GIF file will be displayed as a clickable image, and thus appears to be a GUI. As one of skill in the programming arts would readily understand, such a GUI is not a graphical program, nor, more specifically, a block diagram, as clearly defined in claim 59, where the graphical program includes the block diagram, and where the block diagram includes a plurality of interconnected function icons representing graphical data flow of a desired function, and where executing the graphical program includes executing the block diagram. Nor does Huntsman ever even mention or hint at a graphical program as clearly defined in the claim.

Regarding the claimed feature "send information regarding the block diagram of the graphical program over the network to the client computer system"... "wherein the information regarding the block diagram is useable by the client computer system to display the block diagram on the client computer system", the Office Action asserts that

Huntsman discloses “send information regarding the graphical program over the network, wherein the information regarding the graphical program is useable by the client”. The Office Action cites the same GUI information that was cited against Applicant’s claimed user interface information, then, admits that Huntsman fails to teach the specific feature that the graphical program includes the block diagram, where the block diagram includes a plurality of interconnected function icons representing graphical data flow of a desired function, and where executing the graphical program includes executing the block diagram. The Office Action then asserts that Kodosky remedies this deficiency, citing Kodosky’s block diagrams.

In other words, regarding Huntsman, the Examiner appears to assert a rough equivalence between Huntsman’s “GUI” and a “graphical program” (which is incorrect), then appears to assert a rough equivalence between “GUI” and Kodosky’s block diagram, thereby blurring the distinction between a GUI and a block diagram (which is graphical program code), which is improper. Applicant submits that it is improper to assemble disparate terms from the cited art in an attempt to produce Applicant’s claimed invention as represented in claim 59.

Thus, the Examiner’s assertion that Huntsman discloses “send information regarding the graphical program over the network” is incorrect, at least because the GUI information Huntsman sends is not a graphical program at all, and because the GUI information was characterized by the Examiner as Applicant’s claimed information regarding a user interface *for* a graphical program.

Kodosky discusses graphical programs, including a block diagram, but nowhere discloses sending information regarding a block diagram over a network for use in displaying the block diagram. Applicant notes that the citation (col.8:8-23) simply describes a graphical program’s block diagram and front panel (GUI), but says nothing regarding sending information regarding a block diagram over a network for display of the block diagram. Said another way, Kodosky discloses graphical programs, but nowhere teaches sending information regarding a block diagram of a graphical program over a network to a client system for display. Applicant submits that Huntsman’s sending of GUI information and Kodosky’s graphical program in combination do not produce this limitation of claim 59.

In the Response to Arguments, the Examiner argues that “one or ordinary skill in the art would readily comprehend that a MS-Windows program is a graphical program (e.g., panels and windows) that is manipulated by a user via a GUI (e.g., buttons and menus).” Again, this is incorrect and improper, since the cited MS-Windows programs do not meet the definition of graphical program as clearly stated in both the claims and the Specification.

In the Response to Arguments, the Examiner further argues that Kodosky is only relied on for “information regarding the block diagram of the graphical program”, and that “Huntsman clearly discloses sending information regarding the graphical program over a network to a client system for display...”. Applicant respectfully notes that if Kodosky is relied on only for “information regarding the block diagram of the graphical program”, that since Huntsman only discloses sending GUI information for a textual program over a network, then the combination does not, and cannot, disclose sending information describing a user interface for a graphical program over a network, *and* sending information describing a block diagram for the graphical program over the network, as claimed. Moreover, as explained repeatedly, Huntsman’s programs are not graphical programs, and Huntsman’s GUIs are not user interfaces of graphical programs. Applicant respectfully requests that the Examiner give proper weight and consideration to the terms in Applicant’s claims, and submits that if such consideration is given, it will be clear that Kodosky and Huntsman do not, and cannot, teach these claimed features.

Thus, Huntsman and Kodosky, taken singly or in combination, fail to teach or suggest this claimed feature of claim 59.

Nowhere does the cited art disclose **send information describing a user interface of the graphical program over the network to the client computer system after establishing the network connection with the client computer system, wherein the information regarding the user interface is useable by the client computer system to display the user interface on the client computer system**, as recited in claim 1.

Cited col.9:31-50, discussed above, describes sending GUI information for a conventional text-based program, *not* information describing a user interface *of a graphical program* as defined in the claim.

As noted above, per this citation, Huntsman's GIF file, as referenced by the REMOTE.HTM, presents the screen image of the client (first) computer, and REMOTE.HTM contains appropriate HTML references to the GIF file so that the GIF file will be displayed as a clickable image, and thus appears to be a GUI. As one of skill in the programming arts would readily understand, such a GUI is not itself a graphical program as defined in the claim, nor, more specifically, is Huntsman's GUI a user interface *for a graphical program*. As defined in claim 59, a graphical program includes the block diagram that includes a plurality of interconnected function icons representing graphical data flow of a desired function, and where executing the graphical program includes executing the block diagram.

As known by those of skill in the art, a textual program that provides graphics functionality is not a graphical program. Moreover, Huntsman never even mentions or hints at a graphical program. Applicant has made this point clearly in previous Responses, yet the Examiner continues to refer to Huntsman's program as a graphical program. Applicant respectfully submits that it is improper for the Examiner to attempt to redefine key terms in Applicant's claims in a manner contradictory to the definitions in the claims, and in contradiction to the Specification.

Thus, the cited art fails to disclose these features of claim 59.

Nor has a proper motivation to combine been provided. The suggested motivation: "because one of ordinary skill in the art would be motivated to remotely control block diagram information of a virtual instrument that is executing on one computer system from another computer system", simply states a presumed benefit of Applicant's invention as recited in claim 59, and appears to rely on hindsight analysis using claim 59 as a blueprint, which is improper. Applicant notes that neither reference mentions or even hints at the desirability or utility of such a combination. Thus, Huntsman and Kodosky are not properly combinable to make a prima facie case of obviousness.

Moreover, even were Huntsman and Kodosky properly combinable, which Applicant argues they are not, the resulting combination would still not produce Applicant's invention as expressed in claim 59, as discussed in detail above.

In the Response to Arguments, the Examiner continues to make incorrect assertions regarding the teachings of Huntsman, asserting that Huntsman's Windows programs (with GUIs) are graphical programs. Applicant has addressed this issue repeatedly, and at length, and respectfully refers the Examiner to the arguments above.

Thus, for at least the reasons presented above, the cited art, taken singly or in combination, fails to teach or suggest all the features and limitations of claim 59, and so claim 59, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Independent claims 73 and 81 include similar limitations as claim 59, and so the above arguments apply with equal force to these claims. Thus, for at least the reasons presented above, the cited art fails to teach or suggest all the features and limitations of claims 73 and 81, and so these claims and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Claim 82 is similar to independent claim 59, but is directed to client side operations. Arguments similar to those presented above apply to this claim.

For example, as explained above, Huntsman does not teach or suggest a graphical program, nor a block diagram, and so does not, and cannot, disclose **receive information regarding the block diagram of the graphical program from the server computer system over the network, nor display the block diagram based on the information regarding the block diagram**, as recited in claim 82.

The Office Action again cites Huntsman's col.9:31-41, which describes REMOTE.HTM with references to a GIF file that represents the screen/interface for the server computer, referring to it as information regarding a graphical program, which is incorrect, at least because REMOTE.HTM and GIF file relate to Huntsman's interface, not a block diagram. The Office Action then cites Kodosky's col.7:44-59 and col.8:8-23,

which describe a block diagram and its execution, but says nothing about sending information about a block diagram over a network. In fact, nowhere does Kodosky teach or suggest receiving such information from a server computer over a network, nor displaying a block diagram based on such received information.

Thus, for at least these reasons, Applicant submits that the cited art of Huntsman and Kodosky, taken singly or in combination, fails to teach or suggest all the features and limitations of claim 82, and so claim 82 is patentably distinct and non-obvious over the cited art, and is thus allowable.

Independent claims 96 and 104 include similar limitations as claim 59, and so the above arguments apply with equal force to these claims. Moreover, claim 96 further recites that the user interface for the graphical program is a graphical user interface.

Thus, for at least the reasons presented above, the cited art fails to teach or suggest all the features and limitations of claims 96 and 104, and so these claims, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant asserts that numerous ones of the dependent claims recite further distinctions over the cited art.

For example, nowhere does the cited art disclose **provide information indicating a plurality of graphical programs to the client computer system over the network, wherein the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs; wherein, in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs,** as recited in claim 60.

Cited col.8:20-23 discusses an executing GUI program, such as the MS-Windows program manager, and is not germane to graphical programs. Cited col.9:47-50 describes presenting a Windows screen remotely, where the user may click on a menu, button, or other Windows control image, but says nothing whatsoever about providing information indicating *a plurality of graphical programs* to a client computer system over a network, nor, more particularly, where the information indicating a plurality of graphical programs

is usable by the client computer system to display information indicating the plurality of graphical programs, whereby user input may select a graphical program from the plurality of graphical programs.

As explained above, Huntsman fails to teach or suggest graphical programs at all, and so does not, and cannot disclose these features. Nor does Kodosky teach these features, nor Kodosky in combination with Huntsman.

In the Response to Arguments, the Examiner continues to argue that the GUI of a (text-based) MS-Windows program somehow teaches the limitation: “provide information indicating a plurality of graphical programs to the client computer system over the network, wherein the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs; wherein, in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs”. Applicant respectfully notes that Huntsman’s teaching of a user controlling a MS-Windows program remotely via a remotely displayed GUI for the program does not teach or suggest these features, at least because Huntsman nowhere mentions graphical programs, nor providing information indicating a plurality of graphical programs to a client computer system over the network, nor, more particularly, where the information indicating a plurality of graphical programs is usable by the client computer system to display information indicating the plurality of graphical programs. Nor does Huntsman mention or even hint at, that in indicating the graphical program for execution, the user input selects the graphical program from the plurality of graphical programs.

Thus, the cited art, taken singly or in combination, fails to teach or suggest all the features and limitations of claim 60.

As another example, the cited art fails to disclose **send information regarding the block diagram of the graphical program over the network to each of the plurality of client computer systems after establishing the network connection with each of the plurality of client computer systems, wherein the information regarding the block diagram is useable by each of the plurality of client computer systems to display the block diagram**, as recited in claim 65.

Cited col.9:31-50 describes sending REMOTE.HTM with references to a GIF file that represents the screen/interface for the server computer, referring to it as information regarding a graphical program, which is incorrect, at least because REMOTE.HTM and GIF file relate to Huntsman's interface, not a block diagram. This text says nothing about a *graphical program* at all, much less sending information regarding a graphical program (nor, more specifically, a block diagram) to client computers over a network, nor, more particularly, where the information is usable by each client computer to display the graphical program or block diagram. A GUI is not a graphical program, as explained at length above, and thus Huntsman's sending of information for a GUI is not germane to sending information regarding a block diagram. Nor does combining Kodosky's block diagram with Huntsman's sending of GUI information remedy this deficiency—the combination still doesn't teach or suggest sending information regarding a block diagram over a network to a plurality of client computers for display on the client computers.

Thus, the cited art, taken singly or in combination, fails to teach or suggest the features and limitations of claim 65.

As a further example, the cited art also fails to disclose **receive user input specifying an edit to the block diagram from the client computer system over the network; and edit the block diagram according to the user input specifying the edit**, as recited in claim 69.

Cited col.9:50-57 describes a web browser determining mouse coordinates (and HTML mode variables) with respect to the presented GUI/screen, and sending these coordinates to the URL-addressed computer, but says nothing about a *block diagram* at all, much less receiving user input over the network editing a block diagram, and editing a block diagram accordingly. Nor does combining Kodosky's block diagram with Huntsman's sending of mouse coordinate and mode information remedy this deficiency, at least because Kodosky nowhere even hints at editing a block diagram remotely as claimed.

In the Response to Arguments, the Examiner argues that "Huntsman clearly discloses 'receiv[ing] user input specifying an edit to the graphical program from the client computer system over the network', citing Huntsman's remote GUI operations.

However, Applicant notes that Huntsman never even mentions the term “edit”, and nowhere describes editing any kind of program at all, much less a graphical program. Thus, Huntsman does not, and cannot, provide the feature of remote editing of a program, and so, even in combination with Kodosky, which only teaches local editing of a block diagram, fails to teach or suggest these features of claim 69.

Thus, the cited art, taken singly or in combination, fails to teach or suggest the features and limitations of claim 69.

In the Response to Arguments, the Examiner asserts that Applicant’s arguments failed to comply with 37 CFR 1.111(b) because “they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant respectfully disagrees, noting that Applicant has simply explained how the Office Actions have failed to show that the cited art discloses the subject matter of Applicant’s claims, and has further explained that the references cannot teach key limitations of the claims.

Regarding the Examiner’s assertion that Applicant has improperly only attacked the references individually, Applicant respectfully disagrees. Applicant has rebutted specific assertions by the Examiner regarding what each individual reference teaches, particularly Huntsman, and respectfully notes that the Examiner’s combination argument relies on these assertions, and so fails when the assertions are incorrect. Applicant has also addressed the fact that in combination, these references also fail to produce Applicant’s claimed embodiments.

The Office Action further asserts that Huntsman’s Abstract teaches a graphical program as recited in the independent claims. The cited Abstract reads thusly:

A remote control system for remotely controlling a Microsoft Windows or other GUI-based first computer from a second computer over the internet using only a standard world-wide-web hypertext browser on the second computer. The second controlling computer may be dissimilar from the first controlled computer user interface, underlying operating system, and hardware architecture.

As may be seen, nowhere does this citation mention, or even hint at, a graphical program as defined in the claims, specifically, “wherein the graphical program includes a

block diagram that comprises a plurality of interconnected function icons representing graphical data flow of a desired function”. Thus, the Office Action’s assertion is incorrect.

The Examiner continues to argue that Huntsman and Kodosky in combination disclose sending information regarding a block diagram over a network to a client system. However, as explained above at length, this is not the case. Huntsman discloses sending information regarding a Windows computer screen, e.g., a GUI, over a network, and Kodosky discloses a block diagram, but neither reference teaches, or even hints at the desirability of sending information regarding a block diagram over a network. Thus, even in combination, these references would not produce this claimed feature.

Applicant respectfully submits that Applicant has properly addressed the Examiner’s assertions, explaining carefully and at length that Huntsman’s MS-Windows programs *are not graphical programs as defined in the claims* for at least the reason that they do not include a block diagram that includes a plurality of interconnected function icons representing graphical data flow of a desired function, and that executing the graphical program includes executing the block diagram. The Examiner simply seems to be ignoring or dismissing these technical features. As another example, Huntsman never even mentions the term “edit”, nor describes editing any programs at all, particularly remotely, yet the Examiner continues to argue that Huntsman teaches editing a graphical program over a network.

Applicant respectfully reminds the Examiner that it is incumbent on the Examiner to particularly point out how the references teach Applicant’s claimed subject matter, and that if the Examiner’s citations do not teach the claimed features, which Applicant has shown above to indeed be the case, the Examiner should allow the claims.

Applicant also asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Removal of the section 103 rejection of the claims is earnestly requested.

## CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5150-38605/JCH.

Also filed herewith are the following items:

- ☐ Request for Continued Examination
- ☐ Terminal Disclaimer
- ☐ Power of Attorney By Assignee and Revocation of Previous Powers
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,

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